

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: November 5, 2007	Department ID Number: CA-07-27

CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Shari Freidenrich, City Treasurer *SF*
 Scott Hess, Director of Planning *SH*
 Jennifer McGrath, City Attorney *JM*

PREPARED BY: Jennifer McGrath, City Attorney *JM*

SUBJECT: Approve Certification of Special Assessments for Delinquent Civil Fines for Municipal Code Violations – Administrative Hearing

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)
--

Statement of Issue: Should the City record notice of special assessments against private property for the value of unpaid civil fines, plus interest and penalties, pursuant to Ordinance #3397 adopted by City Council on June 15, 1998?

Funding Source: No funds are required

Recommended Action: Motion to adopt Resolution No. 2007-74 entitled "A Resolution of the City Council of the City of Huntington Beach certifying Special Assessments for Collection of Delinquent Civil Fines for Municipal Code Violations."

Alternative Action(s): Do not adopt Resolution No. 2007-74.

Analysis: In June 1998, City Council adopted Huntington Beach Municipal Code Chapter 1.18, authorizing the issuance of administrative citations that impose civil fines for violation of the Municipal Code of the City of Huntington Beach. Pursuant to section 1.18.150 of the Municipal Code, the City may certify certain fines, interest, and penalties as delinquent and have them collected as special assessments against the real property involved. Assessments are limited to property related violations wherein the fines exceed \$250.00 cumulatively and are sixty days past due. In addition, all hearing or appeal rights of the cited persons have been exhausted.

At this time, certain administrative citations have been issued on the following property for housing, building, zoning, nuisance and/or health and safety violations:

D-3

REQUEST FOR ACTION

MEETING DATE: November 5, 2007

DEPARTMENT ID NUMBER:CA-07-27

NAME	PROPERTY ADDRESS	DEPARTMENT / Violations
Cherise Dunham Bennett	9521 Bay Meadow Drive	Planning / Nuisance-maintenance
Dennis Blanchard	14872 Trojan Circle	Planning / Nuisance – inoperable vehicles
Brookshire LLC	17941 Brookshire	Bldg / permits required
CKR Resource	5375 Industrial #103	Bldg / permits required
Crown Investment	5482 Oceanus, #B	Bldg / permits required
John R. DeHaan	897 Delaware	Planning / Nuisance – inoperable vehicles
Ruben Garcia	17412 Whetmore Lane	Bldg / permits required
HB Auto	7872 Edinger Avenue	Bldg / permits required
Randy Kaul	601 8 th Street	Bldg / permits required
Diane Kim	17685 Beach Boulevard	Bldg / permits required
Lorbeer Enterprises	4935, 4937, 4941, 4955 Warner	Bldg / permits required
Tony Medina	15317 Pipeline	Bldg / permits required
Penelope L. Ward	16852 Bolero Lane	Planning / Nuisance-maintenance

For each of the properties being considered for placement of a lien, staff has verified that the owners have received proper notification of the violations, citations, notification of the outstanding fines and fees due, and of the potential for placement of a lien on their property for non-payment of the outstanding fines and fee. Property owners have also received invoices for the outstanding fines and fees and provided the opportunity to make payment arrangements. Staff ensures this notification by adhering to the procedures outlined in Attachment 2, titled, "Notification and communication to property owners prior to lien placement."

The civil fines identified on Exhibit A to this Resolution have not been paid. The fine amounts would be levied against the properties, non-payment of which would incur penalties and would appear as an exception to the title on a title report at the time of transfer of the property. In addition, the fines will be reported to the County Tax Assessor for inclusion on the property tax bills.

Although not required by Chapter 1.18, all the property owners identified above received preliminary written notice from the City Attorney's Office regarding the intention to file a lien on the property for non-payment of civil citation(s).

REQUEST FOR ACTION

MEETING DATE: November 5, 2007

DEPARTMENT ID NUMBER: CA-07-27

An administrative hearing is required by the Huntington Beach Municipal Code Chapter 1.18. Only property owners are entitled to speak at the administrative hearing. All other interested parties may speak at the regular public comment portion of the meeting.

Strategic Plan Goal: Preserve the quality of our neighborhoods, maintain open space, and provide for the preservation of historic neighborhoods.

Environmental Status: N/A

Attachment(s):

City Clerk's Page Number	No.	Description
4	1.	Resolution No. <u>2007-74</u> entitled "A Resolution of the City Council of the City of Huntington Beach certifying Special Assessments for Collection Delinquent Civil Fines for Municipal Code Violations."
10	2.	Notification and communication to property owners prior to lien placement

D3 . 3

INTENTIONALLY
LEFT
BLANK

D3.4

ATTACHMENT NO. 1

INTENTIONALLY
LEFT
BLANK

RESOLUTION NO. 2007-74

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH CERTIFYING
SPECIAL ASSESSMENTS FOR COLLECTING DELINQUENT
CIVIL FINES FOR MUNICIPAL CODE VIOLATIONS

WHEREAS, the City Council has adopted Huntington Beach Municipal Code 1.18 which authorizes the issuance of administrative citations that impose civil fines upon persons who violate the Municipal Code of the City of Huntington Beach; and

WHEREAS, certain administrative citations have been issued and the civil fines imposed thereby have not been paid by the responsible persons who committed the Municipal Code violations; and

WHEREAS, section 1.18.150 of the Municipal Code provides that certain delinquent fines, interest and penalties may be collected as part of the nuisance abatement procedures authorized by Government Code section 38773.5; and

WHEREAS, the City Council wishes to certify certain fines, interest, and penalties as delinquent and have them collected as special assessments against the real property involved,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Huntington Beach as follows:

1. The City Council held an administrative public hearing on November 5, 2007, which was properly noticed as required by Government Code section 38773.5, for the purpose of certifying special assessments against properties where public nuisances have occurred.
2. The special assessments designated on Exhibit A, which is attached and incorporated herein by this reference, are hereby certified as being delinquent civil fines, interest and penalties owing to the City of Huntington Beach and qualified for collection as special assessments under section 1.18.150C.
3. The City Council as part of the City's nuisance abatement program orders that these delinquent fines, interest and penalties are to be collected as special assessments against the respective properties shown on Exhibit A pursuant to the provisions of Municipal Code section 1.18.150 and Government Code section 38773.5.
4. Pursuant to such authority, the City Treasurer is directed to take the requisite steps for recording notice of such assessments against the respective properties in the property records of the County of Orange and for obtaining the collection of such assessments by the Tax Collector of the County of Orange.

5. The City Treasurer is also authorized to take the necessary steps to have releases filed with the County Recorder when any such special assessments have been paid.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting held thereof on the _____ day of _____, 2007.

Mayor

REVIEWED AND APPROVED

Penelope Culbertson
City Administrator

APPROVED AS TO FORM:

James M. Johnson
10-11-07 City Attorney

INITIATED AND APPROVED:

James M. Johnson
10-11-07 City Attorney

EXHIBIT A

INTENTIONALLY
LEFT
BLANK

CERTIFICATION OF SPECIAL ASSESSMENTS
OWING TO THE CITY OF HUNTINGTON BEACH
FOR TRANSMISSION TO COUNTY TAX COLLECTOR

Property Address	Owner	Dates / Fine Amount(s) / Total (w/late fees & charges)	Violation	APN #
9521 Bay Meadow Drive Huntington Beach, CA 92646	Cherise Dunham-Bennett	1/3/07 \$1,000 9/28/06 \$500 Total \$1,688.64	HBMC 17.10.050 HBMC 17.10.050	151-411-55
14872 Trojan Circle Huntington Beach, CA 92647	Dennis Blanchard	8/30/06 \$250 9/19/06 \$500 Total \$905.82	HBMC 8.48.180 HBMC 8.48.180	195-063-80
17941 Brookshire Huntington Beach, CA 92647	Brookshire LLC c/o Arvind Pal	12/6/06 \$1,000 1/8/07 \$1,000 1/18/07 \$1,000 1/24/07 \$1,000 Total \$4,350.12	HBMC 17.02.055; UAC 301.1 HBMC 17.02.055; UAC 301.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1	165-253-10
5375 Industrial #103 Huntington Beach, CA 92649	CKR Resource & Development	1/17/06 \$1,000 1/17/06 \$1,000 1/24/0 \$1,000 Total \$3,280.28	HBMC 17.02.030; UAC 301.1 HBMC 17.02.055; UAC 309.1 HBMC 17.02.030; UAC 301.1	145-511-01
5482 Oceanus, #B Huntington Beach, CA 92648	Crown Investment Partnership	1/23/07 \$500 Total \$556.12	HBMC 17.02.030; UAC 301.1	145-016-04
807 Delaware Street Huntington Beach, CA 92648	John R. DeHaan	12/28/06 \$250 Total \$573.12	HBMC 8.48.180	024-211-03

Property Address	Owner	Dates / Fine Amount(s) / Total (w/late fees & charges)	Violation	APN #
17412 Whetmore Lane Huntington Beach, CA 92647	Reuben Garcia	11/16/06 \$250 11/28/06 \$500 2/8/07 \$1,000 Total \$1,965.72	17.02.030; UAC 301.1 17.02.030; UAC 301.1 17.02.030; UAC 301.1	165-092-03
7872 Edinger Avenue Huntington Beach, CA 92747	HB Auto I LLC	1/17/07 \$250 Total \$286.08	HBMC 17.02.055; 309.1	142-081-28
601 8th Street Huntington Beach, CA 92648	Randy Kaul	12/11/06 \$250 1/23/07 \$500 Total \$839.47	HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1	024-093-14
17685 Beach Boulevard Huntington Beach, CA 92647	Diane Kim	1/11/07 \$1,000 1/19/07 \$1,000 1/24/07 \$1,000 Total \$3,280.18	HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1	165-312-17
4935, 4937, 4941, 4955 Warner Huntington Beach, CA 92649	Lorbeer Enterprises	11/17/06 \$500 11/17/06 \$250 11/17/06 \$500 11/19/06 \$500 1/17/07 \$500 1/17/07 \$1,000 1/27/07 \$1,000 Total \$4,786.27	HBMC 17.02.055; UAC 309.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.055; UAC 309.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1 HBMC 17.02.030; UAC 301.1	178-263-07
15323 Pipeline Huntington Beach, CA 92649	Medina Property, LLC	10/27/06 \$500 Total \$587.16	HBMC 17.02.030; UAC 301.1	316-863
16852 Bolero Lane Huntington Beach, CA 92649	Penelope L. Ward	11/29/06 \$500 Total \$581.15	HBMC 17.08.020; UHC 1001.8 HBMC 17.10.050	178-372-13

D3 . 10

ATTACHMENT NO. 2

INTENTIONALLY
LEFT
BLANK

Attachment 2

Notification and communication to property owners prior to lien placement:

- Initial notification of outstanding violations are made to property owners by personal contact, sending a notice of violation or letter via first class mail, by posting a notice on the front door to the property, or combinations of all of these.
- Notification includes an explanation of the violation, describes the required action to bring the property into compliance, provides a time frame for compliance to be achieved, and states the consequences of non-compliance (i.e. possible civil citations, re-inspection fees, and or prosecution).
- If compliance is not achieved within the time frame of the initial notification, typically a final notice is issued, allowing a small, additional amount of time to bring the property into compliance. This notice again describes the required action to bring the property into compliance, provides a time frame for compliance to be achieved, and states the consequences of non-compliance.
- If after the issuance of the final notice compliance has not been achieved, citations may be issued. All citations are sent to the property owner on record with the Orange County Recorder's Office, and are mailed via certified mail to the mailing address on record with the Recorder's Office. Citation forms describe the code or ordinance that was observed to be in violation, the amount of the fine imposed for the violation, and describes in detail the process for appealing and or paying the citation. The citation also informs the property owner again that failure to comply may result in the issuance of additional citations, re-inspection fees, and or prosecution. In addition, the citation contains language notifying property owners that non-payment of the citation may result in the placement of a lien on their property.
- Once a citation has been issued, staff will typically suspend action on the case for 30 days, allowing the property owner the opportunity to appeal the citation. This also allows for the possible return of the citation due to incorrect ownership information or the certified mail being unclaimed by the addressee/property owner.
- If the citation is returned, staff will confirm the address information for the property owner. If new contact information is found, staff will start the process over with the issuance of a new notice of violation. If the initial contact information is found to be correct, staff will send the citation to the property owner via first class mail, and will again suspend action on the case for 30 days, allowing the opportunity for appeal.
- If after 30 days no appeal has been received, or an appeal was received and the citation upheld, and no payment has been received, the City Treasurer's Office assigns the case to accounts receivable to attempt to collect the outstanding fines and fees. Account statements are sent out on a monthly basis, informing the property owner of the amount

due, why the amount is due, and the consequences for not remitting the amount due (i.e. accrual of interest and late fees, and possible placement of a lien).

- After a period of at least 90 days to 6 months or more of not receiving payment, the City Treasurer's Office will submit the property for consideration for placement of a lien. A final notice is sent out to the property owner advising that if payment is not received by a certain date, a public hearing will be held to consider placing a lien on the property.
- If no payment has been received after the period indicated in the final notice, a list of properties being considered for lien is developed and distributed to the various departments who were responsible for the initial issuance of the citation. Each department reviews the corresponding case file, information, or supporting materials for each property to ensure that proper notifications had been made throughout the process and that the originally issued citation was issued correctly and to the person responsible for the property.
- Once the list has been checked by staff, the City Clerk's Office sends notice to the property owner advising of the date and time of the public hearing for the placement of the lien.
- At the public hearing, property owners are given the opportunity to address the council regarding the placement of the lien and the Council may take their comments into consideration when deciding to place a lien on the property.